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**AFFIDAVITS ATTACKING FRANK JURORS  
MADE PUBLIC**

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**TWO JURORS PREJUDICED,  
SAY**

**AFFIDAVITS, AND JURY  
HEARD**

**CROWDS CHEER AND  
THREATEN**

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Three Men Swear They Were Together When  
Juror Henslee

Said He Knew Frank Was Guilty, and Five Say  
They Indi-

Vidually Heard Him Say the Same Thing -  
Three in Same

Family Attack Juror Johenning

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**AFFIDAVITS SAY JURYMEN TALKED TO**

## **PEOPLE WHILE WALKING ALONG STREET**

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When Crowd Cheered for Dorsey Outside Court Room, De-

clare Affidavits, the Jury Members Looked Out of the

Windows and Noticed the Demonstration – Cheers in Court

Room Also Mentioned.

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SENSATIONAL affidavits to support the contentions of the defense of Leo M. Frank that two of the jurors, who tried him were prejudiced; and that people evaded the guards and spoke to the jurors; and that the jury must have heard the cheers for Frank's prosecutor, were served on Solicitor General Hugh M. Dorsey by Attorneys Rosser and Arnold on Saturday, following the postponement of the argument in the case. The crowd about the court was so hostile, the affidavits say, that threats of violence to Frank were freely made.

Three men swear that they were together when Juror A. H. Henslee made a statement to the effect that he was sure of Frank's guilt, while five others wear that they individually heard him make the same statement.

Three members of the same family swear that they heard Juror M. Johenning remark before the trial that he considered Frank guilty of Mary Phagan's murder.

### **HENSLEE ATTACKED.**

In repositions Shi Gray T. M. Johnson and John M. Holmes all of declare in a general conversation that Frank was guilty. The

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state-Sparta declare that during the latter part of June they heard Henslee statement was made firmly and positively all three declare and one of them, Holmes, says that the conversation occurred on June 27 and Henslee then remarked that he had been summoned as juror and might have to pass on the case. (This was just prior to the date for which the case was first set).

C. P. Stough, of Atlanta, swears that while he was riding on a car coming from his daughter's home in West End, that Henslee was sitting with him and in a discussion of the Phagan case expressed the opinion that Frank was guilty and said that he would like to have a chance to break his neck.

R. L. Gremer, of Albany, Ga., declares that Henslee in the presence of Mack Farkas in speaking of Frank said: "I know he is guilt," Farkas in an affidavit says that Henslee remarked, "I believe he is guilty."

#### **SAID HENSLEE THOUGHT NECK SHOULD BE BROKEN.**

Julian A. Lehman, of Atlanta, declares that during June he was on a trian between Atlanta and Experiment, Ga., with Henslee and that in a conversation Henslee said "Frank is as guilty as a damned dog and ought to have his - - neck broken."

Samuel Aron declares that he was sitting on the porch of the Elks' club about two days after the indictment against Frank had been returned by the grand jury, and that a man, whom he has since learned was Henslee said: "I am glad that they indicted that - - Jew. The people ought to lynch him. If I get on that jury I will hang that Jew sure."

#### **AFFIDAVITS AGAINST JOHENNING.**

H. C. Loevenhart, who works for the Hodges Broom company, where M. Johenning is employed, Mrs. Lovenhart, and Miss Mariam Lovenhardt all make affidavits relating to the alleged prejudice of Johenning and these are the only affidavits relative to him, which have been produced.

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Lovenhart says that during May he and Jochenning had a conversation about the Phagan case and that Jochenning made the statement that he believed Frank guilty. He expressed a profound conviction of the guilt of the accused, according to the affidavit.

Mrs. Jennie G. Lovenhart and her daughter both swear that during May they met had talked to Jochenning on Forsyth street and that he expressed his belief in Frank's guilt, positively and forcibly.

"I know he is guilty," Miss Mariam Lovenhart swears the man, who months later was to pass sentence on Frank, then declared."

### FRANK MAKES AFFIDAVIT.

Luther Z. Rosser, Reuben R. Arnold, Morris Brandon and H. J. Haas made an affidavit to the effect that they are sole counsel for Frank, and that at the time the jury was sworn and during the trial that, they did not know that Henslee and Jochenning had made statements showing bias and prejudice. Leo M. Frank also makes an affidavit, which was signed before Samuel A> Boorstein, an attorney, to the effect that he knew nothing of the prejudice of the two men when he allowed them to be chosen on the jury to try him.

W. P. Neil makes an affidavit to the effect that during the trial he was sitting near the jury box; that as the jury passed out to the room in the rear that a man, who had been sitting near him, jumped up and grabbed one of the jurors by the hand and the arm and walking with him conversed with him. Neil expresses the opinion that Deputy Sheriff Plennie Minor also witnessed the occurrence, for Minor came to the man and told him that he saw him speak to a juror and threatened to put him out of the court.

### CHEERS IN COURT.

Neil also says that one day he heard cheers inside of the court room, that Judge Roan said that if the cheering didn't stop he would have to clear the courtroom. Deputy Minor replied to the

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court, according to the affiant, that only in this way could the disorder be stopped.

Miss Martha Kay swears she was in the court room and heard the remark of the court and the deputy's reply. Mrs. A. Shurman makes an affidavit to the same effect and says that on August 25 she also heard cheers outside of the court room and a moment later Solicitor Dorsey entered.

SAYS JURORS WERE TALKED TO.

B. M. Kay declares in a sensational affidavit that on August 22 he saw the jury out walking and that six or seven

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**TWO JURORS  
PREJUDICED,  
SAY AFFIDAVITS;  
JURY  
HEARS CROWDS  
CHEER**

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men were walking along with its members. He stopped his automobile, he says, and watched the jury, and his brother, Sampson Kay, got out and followed the jury. Sampson Kay goes further in his affidavit and says that the men, walking beside the jurors, were talking to them.

Samuel Boorstin, an attorney, declares that after court adjourned on August 22, that a crowd of between 2,000 and 3,000 people gathered in front of the court house and "did tumultuously cheer and applaud the solicitor general" as he left the court house. Boorstin was opposite the Union depot, when he heard the cheering and he declares that he saw Juror Smith and another man peering out of the window of the jury room on the third floor of the Kimball hotel, watching the demonstration in honor of the solicitor.

W. B. Cate swears that on September 1 he saw the crowd cheering madly, lift the solicitor on their shoulders and carry him across the street.

At the luncheon hour during the last day of the trial, J. H. G. Cochran swears he heard tumultuous cheering for Dorsey, and the cheering occurred when the jury was on Pryor street, just a little way from the court house. He says that he saw Dorsey lifting his hat and bowing and smiling at the cheering throng.

### **MORE CHEERS FOR DORSEY.**

H. G. Williams swears that he witnessed a demonstration for Dorsey that lasted from three to five minutes, and that the jury was on its way to the hotel when the solicitor was accorded the ovation. E. G. Pursley swears he heard the cheering.

Marano Bonbenisky swears that he heard a vast throng cry "Hurrah for Dorsey" when the jury was only a short distance away and must have heard.

Isaac Hazan makes an affidavit to the same effect, stating that the occurrence was on August 22.

John H. Shipp makes the same statement, but adds that on the same day he heard many threats of violence to the defendant in event a verdict of acquittal was returned by the jury. The threats were freely made by people in the crowd and one man even exhibited the weapon, which he said that he would use on Frank if he were freed.

B. S. Lipshitz makes an affidavit relative to the cheering on August 23.

Charles J. Moore, an attorney with offices at 301 Kiser building, asserts in an affidavit that on the 22<sup>nd</sup> he heard the crowd shouting "Hurrah for Dorsey!" and looking out of his office window saw that the jury was not more than fifty feet away at the time.

#### THREATS OF VIOLENCE.

Mr. Moore says further that he heard frequent threats of violence to Frank, in the event of his acquittal, expressed by people around the court house. In one crowd, where the threats were being made, the attorney says, he recognized W. R. W. Milner and Richard Dutton.

D. Rosinsky declares that on the 22<sup>nd</sup> and 23<sup>rd</sup> he heard the cheering for the solicitor."

All of the affidavits referred to were attached as exhibits to the motion for a new trial, which has been served on the solicitor general. The ones relative to the alleged prejudice are considered of vital importance, and Solicitor Dorsey is also preparing to attack them, it is said.

#### "A LIE," SAYS HENSLEE.

Atticus H. Henslee, the Frank juror who has been attacked as prejudiced in the defense's motion for a new trial for Leo M. Frank, arrived in Atlanta Saturday morning to be present while the fight is waged about him.

“The statement of C. P. Stough or anybody else who says that I remarked before the trial that Frank was guilty is a lie out of the whole cloth,” Mr. Henslee asserted.

“The charge that I said I would like to be in a position to break Frank’s neck is a preposterous lie.”

“When I was sworn as a juror I answered the questions put to me as I did because I was unwilling to lie, and I believe that any sane man will realize that I would certainly have disqualified myself if I could have truthfully done so.”

“I tell you,” continued Henslee, “It is a pretty hard thing for a man to be attacked as I have been just because from a sense of duty he served on a jury, allowing himself to be made a practical prisoner for a whole month and jeopardizing his business interests.”

Mr. Henslee declared that he believed that the depositions from Sparata citizens, like those from several citizens of Blakely, would not charge that he had made any remark, showing bias or prejudice.

As to the statement of Mr. Sough that he frequently rode to the city on the car with Henslee, the latter declares that while he knows Stough, that he does not remember ever riding on the car with him, although it is possible that he did.

“As a matter of fact,” said Mr. Henslee, “I didn’t know that he lived in the same part of the city that I do.”



**FRANK**

**WILL**

**NOT HANG**

**ON**

**NEXT**

**FRIDAY**

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# Hearing for New Trial Is Now Set for Next Saturday and Will Come Before Judge Roan

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The hearing for a motion for a new trial for Leo M. Frank, convicted of the murder of Mary Phagan, which was set for Saturday morning before Judge L. S. Roan, at the request of Solicitor Hugh M. Dorsey, was postponed until next Saturday morning at 9 o'clock.

As Frank was sentenced to hang on October 10 Judge Roan issued an order staying his execution indefinitely. Under this order, it will be necessary for Frank to be resentenced before he can be executed and this will not occur until after the case has gone through the supreme court, even if the motion for a new trial is denied.

INFORMAL DISCUSSION.

The discussion before Judge Roan Saturday morning was entirely informal. Solicitor Dorsey stated to the court that he had been served with a voluminous document, setting forth grounds on which a new trial is sought, that two weeks at least would be required for him to go through the record and prepare his answer.

Attorneys Luther Z. Rosser and Reuben R. Arnold said that they believed with the solicitor's familiarity with the case he could get his answer ready within a week. Mr. Dorsey replied that he was anxious for the motion to be disposed of as speedily as possible, as the jail is congested and there were many cases pressing for trial. He promised that if he could get ready in a week he would do so and said that he was willing for the case to be set for next Saturday. If he is not ready at that time he would ask a further postponement.

It is generally expected that the solicitor will announce ready next Saturday, despite the tremendous amount of work before him. After he was served with all the papers in the case Saturday Mr. Dorsey closed his office, and he and his assistant, E. A. Stephens, are denying themselves to all callers and working exclusively on the motion.

### **SURPRISE TO ALL.**

The solicitor asked that the attorneys for Frank furnish him with the copies of the evidence on which their motion for a new trial is based, meaning the affidavits in which bias is charged to the jurors, A. H. Henslee and M. Jochenning. Messrs. Rosser and Arnold promised that they would furnish the solicitor with copies of this evidence at once and with any other evidence that might be gathered between

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# **CONVICTED SLAYER OF MARY PHAGAN RECEIVES RESPITE**

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now and the time of the hearing. The action of Frank's attorneys in agreeing to turn over their evidence was a surprise, as a fight on this point had been expected.

Judge Roan, speaking informally, said that he was anxious to hear the motion before taking his seat on the court of appeals bench, as he realized that unless he certified to the grounds on which a new trial was asked, it would be necessary for him to aid whoever did so. Judge Roan, the attorneys for Frank and the solicitor, all seemed anxious that the motion should be disposed of as soon as possible and that Judge Roan himself might hear the motion if possible.

**SENTENCE SUSPENDED.**

Following is the formal order suspending sentence upon Frank:

"State of Georgia vs. Leo M. Frank,"

"In Fulton superior court."

"Conviction of murder and motion for a new trial."

"In the case above stated, the hearing on the motion for a new trial is set for Saturday, October 11, 1913, at 9:30 o'clock a. m., at the Thrower building, Atlanta, and all rights whatsoever granted to movant in the original order on the motion for a new trial or by the law are hereby continued and preserved to the movant until such time as the motion may be shared."

"In the meantime the execution of the court sentence is hereby suspended and superseded until the further order of the court."

"This October 4, 1913.

(Signed) L.S. ROAN,

"Judge Superior Court, Stone Mountain Circuit."

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**MEN IN UNIFORM  
WILL**

**HEAR SPECIAL  
SERVICE**

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Members of the police and fire department have been extended an invitation by Dr. John E. White to a special sermon he will deliver at the Second Baptist church next Sunday night. Communications to this effect were received by Chief of Police James L. Beavers and Fire Chief Cummings on Friday.

The invitation was accepted by Chief Beavers, and a part of the church auditorium has been set aside for the men in uniform. The purpose of the service is to make emphatic the interest of religion and the churches in the men who deserve the respect and gratitude of all people.

The public is cordially invited to attend this service.